

FILED
BOARD OF PHYSICAL THERAPY

JUL 18 2011

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102
Attorney for New Jersey State Board of Physical Therapy Examiners

By: Carmen A. Rodriguez
Deputy Attorney General
(973) 648-3696

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PHYSICAL THERAPY EXAMINERS

IN THE MATTER OF

EMERSON MATEO, P.T.
License No. 40QA0104800

Administrative Action

MODIFIED
CONSENT ORDER

TO PRACTICE PHYSICAL THERAPY
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Physical Therapy Examiners (hereinafter "the Board") upon receipt of information questioning the physical therapy services that were provided at Therapro, a comprehensive outpatient rehabilitative facility. The Board requested directly from Therapro documentation of their business locations and employees. At the Board's request six random patient records were obtained from Therapro's Jersey City location. After reviewing the records, the Board invited Emerson Mateo, P.T. (Hereinafter "Respondent") to appear at an investigative inquiry.

On March 11, 2008 Respondent appeared with counsel, Thomas J. Tamburelli, Esq., at an investigative inquiry held by the Board. Respondent testified that he provided physical therapy services to patient E.L. on approximately four occasions from March 2, 2007 through May 4, 2007 for neck and back pain. During the sessions with E.L., Respondent testified that he applied heating packs and performed a myofascial release, but did not document on what part of the body they were used. Respondent could not recall accurately whether they were used on the neck, back, or both. Respondent confirmed that E.L. had been given a worksheet listing exercises to be performed at home, but Respondent stated that he did not generally keep a copy of the home exercise worksheets in the patient's file. If any modifications were made to an exercise, Respondent testified that he did not record the modifications in the patient chart. Respondent testified that after several sessions, E.L. did not need re-instruction or supervision on certain exercises, such as the exercise bicycle. However, this exercise was billed at a one-on-one billing code. Respondent further testified that he would have E.L. doing an exercise on the bike while Respondent was finishing with another patient. Respondent testified that since the facility was an open area, he could check in periodically on different patients. Exercises performed under these conditions were also billed as a one-on-one billing code. Respondent testified that he used a four-tiered pain scale although this pain scale was not recorded in the patient's records.

Respondent provided physical therapy services to patient D.S. on approximately four occasions from February 26, 2007 through March 30, 2007 for knee problems and vertigo. Respondent confirmed that the patient's record does not indicate where the heat and inferential treatments were placed on the patient. Respondent testified that the computer

would allow such an entry of location to be made. Patient D. S.'s second visit was charged as an initial evaluation but Respondent stated that it was a re-evaluation. Respondent's progress notes were conflicting, indicating progress as better than anticipated, even though walking tolerance was listed as worse, and the pain scale rating was the same. Respondent confirmed that for the exercise of hamstring curls with cuff weights, his records did not state the weights used or number of repetitions. Respondent testified that he usually documented the weights used. Finally, Respondent testified that the bills were generated based on the physical therapist's computer entries, and the physical therapists hand-signed the daily notes after the receptionists printed them out 3-5 days later.

A review of the patient record indicates that the documentation maintained on Patients E.L. and D.S. were not in compliance with the Board's patient record regulation as set forth in N.J.A.C. 13:39A-3.1. Specifically, Respondent failed to maintain contemporaneous records that accurately reflected the patient contact with Respondent in violation of N.J.A.C. 13:39A-3.1(a). Respondent took an incomplete medical history, failed to indicate which body parts were treated, failed to explain the parameters used, failed to indicate the modalities used, and did not enumerate the home exercise in the chart. Additionally, several violations of the records regulation were found, which included failure to record the dates of all evaluations or interventions (N.J.A.C. 13:39A-3.1(c)2), failure to record the conclusions of the evaluation (N.J.A.C. 13:39A-3.1(c)4), failure to record a diagnosis and prognosis (N.J.A.C. 13:39A-3.1(c)5), failure to accurately record services rendered including the components of intervention and the patient's response (N.J.A.C. 13:39A-3.1(c)8), failure to record progress notes in accordance with goals and changes in the patient's condition (N.J.A.C. 13:39A-3.1(c)9), failure to record changes in the plan of

care (N.J.A.C. 13:39A-3.1(c)11), and a failure to document communication with other health professionals relative to the patient's care (N.J.A.C. 13:39A-3.1(c)12).

The Board further finds that the billing charges were excessive in violation of N.J.A.C. 13:39A-3.6. Specifically, Respondent billed for one-on-one activity when the services provided were not one-on-one.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that pursuant to N.J.A.C. 13:39A-3.8(a), the Respondent's actions constitute a violation of N.J.S.A. 45:9-37.11 et. seq. and professional misconduct pursuant to N.J.S.A. 45:1-21(e). Specifically, Respondent's violations included a failure to notify the referring physician that further treatment was unnecessary and that treatment was being terminated in violation of N.J.A.C. 13:39A-3.8(a)6, and a failure to assure that the patient's bills accurately reflected the services rendered and were based solely upon the services reflected in the patient record in violation of N.J.A.C. 13:39A-3.8(a)10.

These facts establish basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e) and (h). It appearing that respondent desires to resolve this matter without admissions and without recourse to formal proceedings and for good cause shown;

IT IS ON THIS 13th DAY OF July, 2011

HEREBY ORDERED AND AGREED THAT:

1. Respondent is hereby given a warning for the violations of the patient records regulations at N.J.A.C. 13:39A-3.1 and excessive billing regulation at N.J.A.C. 13:39A-3.6.

2. Within one year of the filing date of this order, Respondent shall successfully complete a documentation course, an ethics course, and a differential diagnosis course. Each course shall be a minimum of three credits to be administered and provided by an approved and accredited physical therapy school. Respondent must obtain Board approval in writing prior to attendance and these courses shall not be utilized for credit toward continuing education requirements for license renewal.

3. Respondent is hereby assessed a civil penalty in the amount of \$3,750.00. The total amount of the penalty is payable in installment payments over an 18 month period. Payment for the civil penalty shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to the attention of Lisa, Affinito, Executive Director of the Board of Physical Therapy Examiners, at P.O. 45014, Newark, New Jersey, 07102. The first installment payment of \$225.11 shall be due on May 15, 2011 and the final payment of \$225.13 on October 15, 2012. The installment payments calculated herein include the total for the civil penalty and costs.

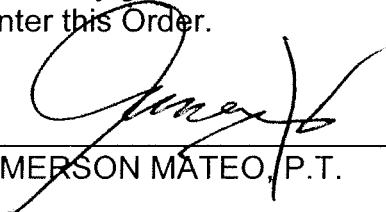
4. Respondent is hereby assessed the costs of the investigation to the State in this matter in an amount of \$302.00. Payment for the costs shall be submitted by certified check or money order made payable to the State of New Jersey and submitted to the Board in 18 monthly installment payments. Payment shall be sent to the attention of Lisa Affinito at the address described in paragraph #3.

5. Failure to remit any payment required by this Order will result in the filing of a certificate of debt, and may result in further disciplinary proceedings.

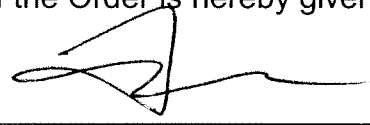
NEW JERSEY STATE BOARD OF
PHYSICAL THERAPY EXAMINERS

By: Karen Wilk PT DPT 400400560100
Karen Wilk. P.T. , D.P.T.
Chairperson

I have read and understand the
within Consent Order and agree
to be bound by its terms. Consent
is hereby given to the Board to
enter this Order.


EMERSON MATEO, P.T.

Consent as to the form and entry
of the Order is hereby given by:


Terri Lodge, Esquire